

May 30, 2024

The Honorable John P. Cronan
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: Consumer Financial Protection Bureau v. MoneyLion Technologies, Inc., et al.
Civil Action No. 1:22-cv-08308-JPC

Dear Judge Cronan:

This letter responds to the Court's Order granting MoneyLion's motion to stay and denying as moot MoneyLion's motion for a pre-motion conference. ECF 80. In that Order, the Court directed the parties to file a joint status report with their views as to how this case should proceed once the Supreme Court issued a decision in *Consumer Financial Protection Bureau v. Community Financial Services Association of America, Ltd.*, No. 22-448 (U.S.) ("*CFSA*"). This letter is the required joint status letter.

On May 16, 2024, the Supreme Court decided *CFSA*—a case that addressed whether the Consumer Financial Protection Bureau's (the "Bureau") funding mechanism violates the United States Constitution's Appropriations Clause. In its decision, attached as **Exhibit A**, the Supreme Court reversed the Court of Appeals for the Fifth Circuit and determined that "[t]he statute that authorizes the Bureau to draw money from the combined earnings of the Federal Reserve System to carry out its duties satisfies the Appropriations Clause." Ex. A, at 26.

Following the Supreme Court's decision in *CFSA*, counsel for MoneyLion and the Bureau conferred. The parties jointly report the following:

1. In light of the *CFSA* decision, MoneyLion withdraws the arguments in Section I of its motion to dismiss, asserting that the Bureau's funding structure violates the Constitution's Appropriations Clause and the nondelegation doctrine. *See* ECF 69 at 8-9. The parties agree, subject to the Court's confirmation, that MoneyLion can withdraw these arguments through this joint status report rather than filing a new or amended motion to dismiss, omitting the above-referenced arguments.
2. The parties agree that MoneyLion's motion to dismiss (after removing the two funding-structure-related arguments), ECF 68, is fully briefed and ripe for the Court's consideration.

3. Defendants state that if the Court wishes to hear oral argument on the motion to dismiss, the parties will confer to find mutually agreeable dates to propose to Your Honor. Plaintiff states that neither party requested oral argument on this motion within the timeframe set forth in this Court's Individual Rules and Practices in Civil Cases Rule 6(C), and the time for requesting oral argument has now passed.

If the Court has any questions, the parties are available to discuss during a conference call at the Court's convenience.

Respectfully Submitted,

/s/ James Kim

Dave Gettings

James Kim

Troutman Pepper Hamilton Sanders LLP

Counsel for Defendants

/s/ Max Peltz

Max Peltz

Mark Ladov

Consumer Financial Protection Bureau

Counsel for Plaintiff

The Court thanks the parties for their submission. The Court will address Defendants' pending motion to dismiss, Dkt. 68, without consideration of the arguments raised in Section I of Defendants' briefing, *see* Dkt. 69 at 8-9.

SO ORDERED.

Date: June 12, 2024

New York, New York



JOHN P. CRONAN

United States District Judge